

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LIFE IS GOOD, INC.,)
Plaintiff)
)
v.) C.A. No. 04-11290-WGY
)
LG ELECTRONICS U.S.A., INC.)
and LG INFOCOMM U.S.A., INC.)
Defendants)

AFFIDAVIT OF ALBERT JACOBS

I, Albert Jacobs, being duly sworn, do depose and state as follows:

1. I am the president of Plaintiff Life is good, Inc.
2. Life is good is a Massachusetts corporation in the business of designing, manufacturing, distributing and selling a wide array of products, including but not limited to t-shirts, hats, sweatshirts, shorts, socks, pajamas, baby and children's clothing, flying discs, bumper stickers, coffee mugs, water bottles, pet products, bags, furniture, coolers, and cellphone charms.
3. In 1994, Life is good's predecessor, Jacobs Gallery, developed the trademark "Life is good" as well as the logo mark "Jake."
4. Since 1994, Life is good has continuously utilized its "Life is good" trademark within Massachusetts and throughout the United States. Life is good uses its "Life is good" trademark on its products, on hang tags, displays, boxes, packaging and labels, at charitable festivals it sponsors, at its website (www.lifeisgood.com), and in catalogs and other places. Life is good uses its "Life is good" trademark on every product it sells, typically on a hang tag or label. Attached hereto as Exhibit A is a copy of Life is good's most recent catalog.
5. Life is good sells its products under the "Life is good" trademark throughout the United States, in numerous foreign countries, and at more than 280 outlets in Massachusetts.

These outlets include third-party retailers such as City Sports, Olympia Sports, REI, Ski Market, Eastern Mountain Sports, The Rugged Bear and Dick's Sporting Goods. In addition, "Life is good" brand goods are sold at independent retailers such as The Fresh Pond Golf Course in Cambridge, Champions Sporting Goods in Belmont, and the Marblehead Sports Shop. Further, "Life is good" products are sold at company owned stores on Newbury Street in Boston and on State Street in Newburyport, and at outlets exclusively dedicated to the sale of "Life is good" brand products, including Everything's Jake in Harvard Square, Cambridge and Harbor Goods in Gloucester. Also, "Life is good" brand products are sold in Massachusetts and worldwide at Life is good's website (www.lifeisgood.com) and through websites operated by third-parties such as www.backpackingdeals.com and www.paintedkiwi.com.

6. Life is good has generated substantial sales of products under the "Life is good" brand and trademark. I understand that since 1998 Life is good has sold more than \$150 million in products bearing the "Life is good" mark, including approximately \$7.5 million of such products in Massachusetts between 2001-2005. Additionally, I understand that since 1998 Life is good has spent more than \$4 million marketing its goods under the "Life is good" mark. These marketing efforts include catalogs, packaging and labels, point of purchase displays, Life is good's website, and attendance at trade shows.

7. Life is good has held charitable festivals (the Life is good Backyard Festival in summer and the Life is good Pumpkin Festival in autumn) in Boston since 2004. I understand that approximately 150,000 people have attended these festivals. I understand that approximately 80,000 articles of "Life is good" clothing have been sold in connection with these festivals, with proceeds benefiting families of children facing life-threatening illnesses, and that Life is good has incurred more than \$500,000 in out-of-pocket expenses

holding these festivals. The festivals in Boston have generated more than \$460,000 for charities. The festivals have been advertised in such media outlets as WBOS radio, Fox Net Sports, WCVB TV Channel 5, Boston.com, the Improper Bostonian, and the Tab Newspapers.

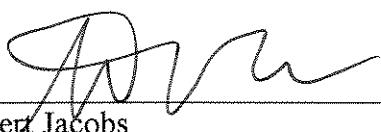
8. "Life is good" is recognized by the public as a distinctive trademark and brand. Literally hundreds of people have approached me in Massachusetts and told me that they were fans and/or supporters of the "Life is good" brand of products. By way of example, back on May 20, 2006, a man named Chris Holland told me "I love your brand. I wear it all the time." Similarly, on April 24, 2006, Guy Neil, who is the General Manager of the Atlantic Fish Company in Boston, told me "Your brand is doing great. I see the bags everyday."

9. In addition to "Life is good," Life is good does use other phrases on its products such as "chill out," "ride on," and "think outside the box." However, unlike the "Life is good" trademark, those phrases are not used on hang-tags, labels, on the back of products or elsewhere to identify the source of the products, and we have not adopted any of those phrases as our corporate name or brand name.

10. I believe that the distinctive quality of the "Life is good" brand as represented by the "Life is good" trademark is substantially responsible for our success.

11. I believe that Life is good does sell some products that are "related" to some of the products sold by the defendants. These include furniture, cellphone charms and coolers.

Signed under the penalties of perjury this 1st day of June, 2006.



Albert Jacobs

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail hand on 6/11/06
electronically Debra R. M. Gauthier